



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

January 26, 2005

SUBJECT: **2004-0977 – Aragvi** [Applicant] **Armanini Albert L Trustee & Et Al** [Owner]: Application on a 1.9-acre site located at **833 West El Camino Real Suite #1** in a C-2/PD (Highway Business/Planned Development) Zoning District. (APN: 165-01-042):

Motion Special Development Permit to allow liquor service in an existing banquet facility.

REPORT IN BRIEF

Existing Site Conditions Commercial Shopping Center

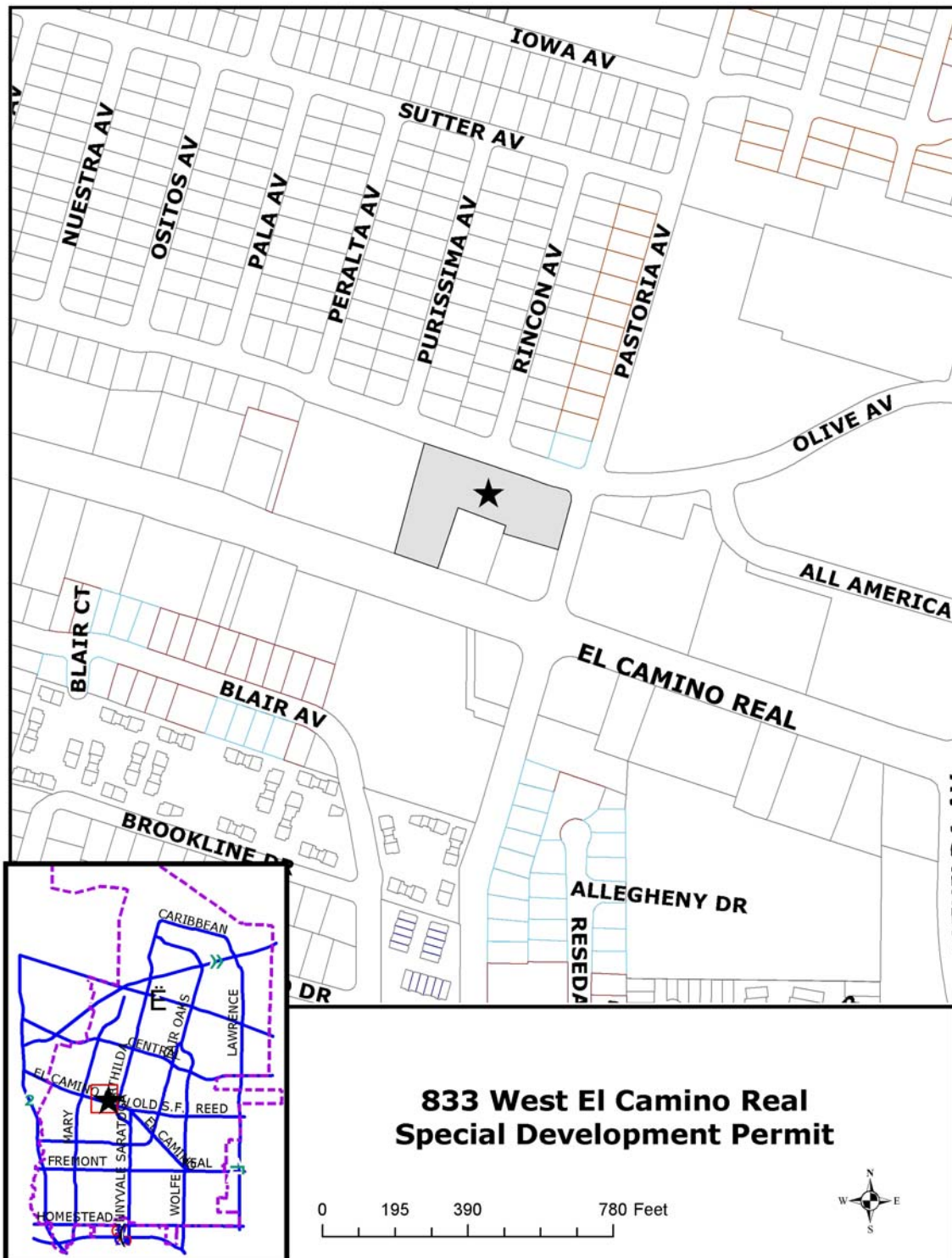
Surrounding Land Uses

North	Across Olive Avenue, Single Family and Duplex residences
South	Across El Camino Real, Commercial Uses
East	Across Pastoria Avenue, Police Station and City Hall
West	Hotel

Issues Parking
Noise Impact on Neighbors

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Commercial General Business	Same	Commercial General Business
Zoning District	C-2/PD	Same	C-2/PD
Lot Size (s.f.)	82,116	Same	No min.
Gross Floor Area (s.f.)	24,858	Same	No max.
Gross Floor Area of Tenant	4,853	Same	
Lot Coverage (%)	30%	Same	35% max.
No. of Buildings On- Site	2	Same	2 by SDP
No. of Stories	1	Same	8 max.
Parking			
• Total Spaces	128	Same	148 min., but 128 allowed by SDP
• Standard Spaces	107	Same	111 min.
• Compact Spaces/ % of Total	16	Same	12 max.
• Accessible Spaces	5	Same	5 min.

ANALYSIS**Description of Proposed Project**

The proposed project is to upgrade the current beer and wine liquor license to include distilled spirits to be consumed on-site for a restaurant and entertainment use. The existing restaurant/entertainment use is a 1,100 square foot part of a 4,853 square foot tenant space used primarily as a grocery store. No exterior changes are proposed as a result of this project. The application also appears to request increasing the previously approved hours for the entertainment and restaurant use, as indicated in the copy of the application to the Department of Alcoholic Beverage Control (Attachment D).

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing / Decision	Date
2002-0636	Special Development Permit to allow a restaurant and live entertainment in an existing grocery store.	Administrative Hearing / Approved	09/25/2002
1998-0737	Special Development Permit to allow three building on one parcel.	City Council / Approved	01/07/1974

This site has been the source of complaints by the owner of the neighboring “Kabul” restaurant. In February 2004, a complaint was filed with the City for excessively loud noise and vibration resulting from a live band providing entertainment on the subject site. Neighborhood Preservation investigated the matter and advised the owner of the neighboring restaurant to work with the property management agent to resolve the issue (NP 2004-0324).

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes existing facilities with negligible or no expansion of an existing use.

Special Development Permit

Use: The existing restaurant and live entertainment with the sale of beer and wine for consumption on-site are conditionally approved uses. However, the sale of distilled liquor for consumption on site is considered an expansion of use, requiring approval of a Special Development Permit.

Parking: Per the 2002 Special Development Permit (SDP) File Number 2003-0636, the site has only 128 parking spaces, which is a deficit of 20 spaces from the 148 spaces required by design for the proposed use. This deficit was addressed by limiting the use of the facility to off-peak (lunch) hours. The conditionally approved SDP restricted hours of operation from 7:00 p.m. to midnight.

Conclusion

Expected Impact on the Surroundings: The previously approved restaurant and entertainment use is currently having a negative impact on a neighboring tenant. Staff spoke with the owner of the neighboring tenant “Kabul” restaurant on January 18, 2005. The owner expressed serious reservations about expanding the existing permitted use to include distilled alcohol given the current noise issues with the currently proposed use. The neighboring

tenant indicated that the loud noise has had a negative impact on his patrons, potentially impacting his business. He also stated that the patrons of the subject site often smoke in the near proximity of the door to the Kabul restaurant, resulting in a further nuisance to his patrons.

The proposed expanded use for sale of distilled liquor is expected to increase the current noise impact on the neighboring tenant.

Staff Discussion: The Department of Public Safety does not have a current log of complaints for the subject site. However, Public Safety staff indicated that expanding such uses generally results in an increase in noise. Staff is recommending denial based on the anticipated impact of the expanded use. The consumption of distilled liquor on site is anticipated to increase the noise from the subject site and further exacerbate an existing conflict with the neighboring tenant. If the Administrative Hearing Officer makes the necessary findings to approve the application, then staff is recommending further limiting the hours of operation to reduce current impacts.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial for this project because the Findings (Attachment 1) were not made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval (Attachment 2).

- Findings and General Plan Goals are located in Attachment A.
- Conditions of Approval are located in Attachment B.

Public Contact

The owner of the neighboring tenant “Kabul” restaurant spoke with staff about the existing noise issues and his concerns that they would be exacerbated by the expanded use.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 31 notices mailed to adjacent property owners and residents of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Alternatives

1. Deny the Special Development Permit.
2. Approve the Special Development Permit with attached conditions.
3. Approve the Special Development Permit with modified conditions.

Recommendation

Recommend Alternative 1.

Prepared by:

Jamie McLeod
Project Planner

Reviewed by:

Diane O'Dell
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site Plans
- D. Application Materials

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element. N1.10.1 – “Locate commercial uses where traffic can be accommodated, especially during peak periods (e.g. lunch time and commute times).”

Land Use and Transportation Element. C1.1.2 – “Promote and achieve compliance with land use and transportation standards.”

Land Use and Transportation Element. Policy N1.13 – “Promote an attractive and functional commercial environment.”

1. The proposed use does not attain the objectives and purposes of the General Plan of the City of Sunnyvale as the project is expected to increase a negative noise impact on the subject site. The use is not consistent with the Land Use and Transportation Element Policy C4.3 “*Consider the needs of business as well as residents when making land use and transportation decisions.*” In this case, it is a case of conflicting needs between two businesses, but it is not clear that not providing for the expanded use will negatively impacted the applicant’s business, while there is a strong indication that expanding the use is likely to have a further negative impact on the neighboring business.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will impair either the orderly development of, or the existing uses being made of, adjacent properties by providing additional noise and disruption to the neighboring tenant on the property. The existing structure was not designed to control the impact of a live band playing in a neighboring tenant space. The walls do not provide adequate sound proofing. While the Sunnyvale Municipal Code only restricts noise impacts on neighboring properties, the intent of the Code would be observed by limiting the potential increase of an existing noise impact for a neighboring tenant space.

Recommended Conditions of Approval - Special Development Permit

Staff is recommending denial of the Special Development Permit. However, if the Administrative Hearing Officer approves the permit, staff has provided the following recommended Conditions of Approval.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

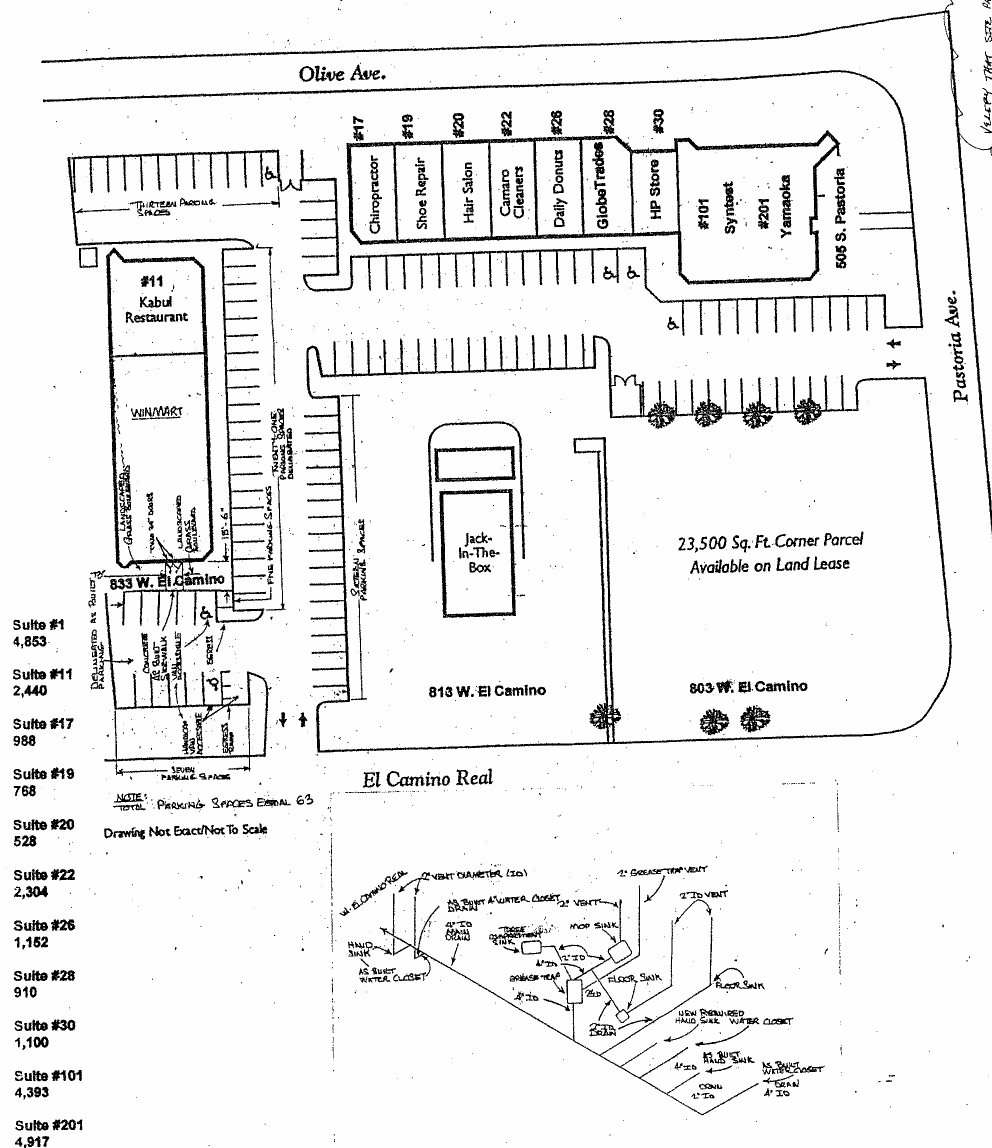
1. GENERAL CONDITIONS

- A. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more, this includes the use permitted by Special Development Permit File Number 2002-0636.
- B. Any expansion or modification of the approved use shall be approved by separate application at a public hearing by the Administrative Officer.
- C. Applicant shall provide additional sound proofing materials along the wall and extending up through to the roof to mitigate noise and vibration impacts on the neighboring tenant.
- D. Applicant shall obtain a new liquor license from the California Alcoholic Beverage Control prior to use of distilled alcohol on the premises.
- E. The hours of operation for the restaurant / entertainment use is reduced to 8:00 p.m. to 12:00 a.m. (midnight) on Friday and Saturday nights only.
- F. Tenant responsible for ensuring customers do not smoke within 20 feet of any doorways, per State law.
- G. The previously approved live entertainment may not include adult entertainment, as defined by the Sunnyvale Municipal Code.
- H. All other Conditions of Special Development Permit File Number 2002-0636 not addressed in these Conditions of Approval shall remain in force.

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Japan, China, Germany
Departments of 6-10 (1971-72)
1970-71, 1971-72, 1972-73, 1973-74, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79, 1979-80, 1980-81, 1981-82, 1982-83, 1983-84, 1984-85, 1985-86, 1986-87, 1987-88, 1988-89, 1989-90, 1990-91, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-23, 2023-24, 2024-25, 2025-26, 2026-27, 2027-28, 2028-29, 2029-30, 2030-31, 2031-32, 2032-33, 2033-34, 2034-35, 2035-36, 2036-37, 2037-38, 2038-39, 2039-40, 2040-41, 2041-42, 2042-43, 2043-44, 2044-45, 2045-46, 2046-47, 2047-48, 2048-49, 2049-50, 2050-51, 2051-52, 2052-53, 2053-54, 2054-55, 2055-56, 2056-57, 2057-58, 2058-59, 2059-60, 2060-61, 2061-62, 2062-63, 2063-64, 2064-65, 2065-66, 2066-67, 2067-68, 2068-69, 2069-70, 2070-71, 2071-72, 2072-73, 2073-74, 2074-75, 2075-76, 2076-77, 2077-78, 2078-79, 2079-80, 2080-81, 2081-82, 2082-83, 2083-84, 2084-85, 2085-86, 2086-87, 2087-88, 2088-89, 2089-90, 2090-91, 2091-92, 2092-93, 2093-94, 2094-95, 2095-96, 2096-97, 2097-98, 2098-99, 2099-00, 2100-01, 2101-02, 2102-03, 2103-04, 2104-05, 2105-06, 2106-07, 2107-08, 2108-09, 2109-10, 2110-11, 2111-12, 2112-13, 2113-14, 2114-15, 2115-16, 2116-17, 2117-18, 2118-19, 2119-20, 2120-21, 2121-22, 2122-23, 2123-24, 2124-25, 2125-26, 2126-27, 2127-28, 2128-29, 2129-30, 2130-31, 2131-32, 2132-33, 2133-34, 2134-35, 2135-36, 2136-37, 2137-38, 2138-39, 2139-40, 2140-41, 2141-42, 2142-43, 2143-44, 2144-45, 2145-46, 2146-47, 2147-48, 2148-49, 2149-50, 2150-51, 2151-52, 2152-53, 2153-54, 2154-55, 2155-56, 2156-57, 2157-58, 2158-59, 2159-60, 2160-61, 2161-62, 2162-63, 2163-64, 2164-65, 2165-66, 2166-67, 2167-68, 2168-69, 2169-70, 2170-71, 2171-72, 2172-73, 2173-74, 2174-75, 2175-76, 2176-77, 2177-78, 2178-79, 2179-80, 2180-81, 2181-82, 2182-83, 2183-84, 2184-85, 2185-86, 2186-87, 2187-88, 2188-89, 2189-90, 2190-91, 2191-92, 2192-93, 2193-94, 2194-95, 2195-96, 2196-97, 2197-98, 2198-99, 2199-00, 2200-01, 2201-02, 2202-03, 2203-04, 2204-05, 2205-06, 2206-07, 2207-08, 2208-09, 2209-10, 2210-11, 2211-12, 2212-13, 2213-14, 2214-15, 2215-16, 2216-17, 2217-18, 2218-19, 2219-20, 2220-21, 2221-22, 2222-23, 2223-24, 2224-25, 2225-26, 2226-27, 2227-28, 2228-29, 2229-30, 2230-31, 2231-32, 2232-33, 2233-34, 2234-35, 2235-36, 2236-37, 2237-38, 2238-39, 2239-40, 2240-41, 2241-42, 2242-43, 2243-44, 2244-45, 2245-46, 2246-47, 2247-48, 2248-49, 2249-50, 2250-51, 2251-52, 2252-53, 2253-54, 2254-55, 2255-56, 2256-57, 2257-58, 2258-59, 2259-60, 2260-61, 2261-62, 2262-63, 2263-64, 2264-65, 2265-66, 2266-67, 2267-68, 2268-69, 2269-70, 2270-71, 2271-72, 2272-73, 2273-74, 2274-75, 2275-76, 2276-77, 2277-78, 2278-79, 2279-80, 2280-81, 2281-82, 2282-83, 2283-84, 2284-85, 2285-86, 2286-87, 2287-88, 2288-89, 2289-90, 2290-91, 2291-92, 2292-93, 2293-94, 2294-95, 2295-96, 2296-97, 2297-98, 2298-99, 2299-00, 2300-01, 2301-02, 2302-03, 2303-04, 2304-05, 2305-06, 2306-07, 2307-08, 2308-09, 2309-10, 2310-11, 2311-12, 2312-13, 2313-14, 2314-15, 2315-16, 2316-17, 2317-18, 2318-19, 2319-20, 2320-21, 2321-22, 2322-23, 2323-24, 2324-25, 2325-26, 2326-27, 2327-28, 2328-29, 2329-30, 2330-31, 2331-32, 2332-33, 2333-34, 2334-35, 2335-36, 2336-37, 2337-38, 2338-39, 2339-40, 2340-41, 2341-42, 2342-43, 2343-44, 2344-45, 2345-46, 2346-47, 2347-48, 2348-49, 2349-50, 2350-51, 2351-52, 2352-53, 2353-54, 2354-55, 2355-56, 2356-57, 2357-58, 2358-59, 2359-60, 2360-61, 2361-62, 2362-63, 2363-64, 2364-65, 2365-66, 2366-67, 2367-68, 2368-69, 2369-70, 2370-71, 2371-72, 2372-73, 2373-74, 2374-75, 2375-76, 2376-77, 2377-78, 2378-79, 2379-80, 2380-81, 2381-82, 2382-83, 2383-84, 2384-85, 2385-86, 2386-87, 2387-88, 2388-89, 2389-90, 2390-91, 2391-92, 2392-93, 2393-94, 2394-95, 2395-96, 2396-97, 2397-98, 2398-99, 2399-00, 2400-01, 2401-02, 2402-03, 2403-04, 2404-05, 2405-06, 2406-07, 2407-08, 2408-09, 2409-10, 2410-11, 2411-12, 2412-13, 2413-14, 2414-15, 2415-16, 2416-17, 2417-18, 2418-19, 2419-20, 2420-21, 2421-22,

VALLEY THAT SITE PRESENTS, NORTH OF ...
ENTRANCE TWO SEEMS FULLY CONSIDERED ...
A TITLE IS REQUIRED ...



Department of Alcoholic Beverage Control
PLANNED OPERATION (RETAIL)

ATTACHMENT DPage 1 of 2**SECTION I - FOR ALL RETAIL APPLICANTS**

1. APPLICANT NAME(S)

Alex Birman Karapet Grigorian

2. LICENSE TYPE(S)

41

3. PREMISES ADDRESS (Street number and name, city, zip code)

833 W. EL CAMINO REAL, #1, SUNNYVALE CA 94087

4. NEAREST CROSS STREET

PASTOR #1A

5. TYPE OF BUSINESS (Choose one that best describes the planned operation)

☒ Full Service Restaurant☐ Hofbrau/Cafeteria☐ Cocktail Lounge☐ Private Club☐ Deli or Specialty Restaurant☐ Comedy Club☐ Night Club☐ Veterans Club☐ Cafe/Coffee Shop☐ Brew Pub☐ Tavern: Beer☐ Fraternal Club☐ Bed & Breakfast☐ Theater☐ Tavern: Beer & Wine☐ Wine Tasting Room☐ Supermarket☐ Membership Store☐ Service Station☐ Swap Meet/Flea Market☐ Liquor Store☐ Department Store☐ Convenience Market☐ Drive-in Dairy☐ Drug/Variety Store☐ Florist/Gift Shop☐ Convenience Market w/Gasoline☐ Other - describe:

6. WHAT PERCENTAGE OF YOUR TOTAL SALES WILL BE ALCOHOLIC BEVERAGES?

7%

(Estimate)

7. SURROUNDING AREA

☒ Commercial☐ Residential☐ Rural☐ Industrial☐ Other:

8. PARKING LOT?

☒ Yes ☐ No

9. LOCATED ON

☒ Major Thoroughfare☐ Secondary Street☐ Other:

10. VIDEO/COIN-OPERATED GAMES?

☐ Yes ☒ No

11. LOCATED IN

☐ Free Standing Building☒ Shopping Center:☒ 10 Units or Less☐ More than 10 Units☐ Other:

Shopping Center Name:

MARKET CENTER

12. TYPE OF STRUCTURE

☒ Single Story☐ Two-Story☐ Multi-Story - Number of stories:

13. PASS-THROUGH WINDOW?

☐ Yes ☒ No

14. OPERATING HOURS

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Opening Time		11:30 AM	11:30 AM	11:30 AM	11:30 AM	11:30 AM	11:30 AM
Closing Time		12:30 AM	12:30 AM	12:30 AM	12:30 AM	12:30 AM	12:30 AM

SECTION II - FOR ON-SALE APPLICANTS ONLY (Restaurants, Taverns, etc.)

15. PATRON CAPACITY

72

16. FIXED BARS?

☐ Yes - how many:☒ No

17. PATIO?

☐ Yes☒ No

18. WILL YOU HIRE A MANAGER? (Rule 57.5)

☐ Yes☒ No

19. WILL YOU HAVE A FOOD LESSEE? (Rule 57.7)

☐ Yes☒ No

20. ENTERTAINMENT (One or more may apply. Please describe any entertainment with an asterisk (*) below)

☐ None☐ *Amplified Music☐ Patron Dancing☐ Card Room☒ Recorded Music☒ *Live Entertainment☐ Bikini/Topless/Exotic☐ Movies☐ Juke Box☐ *Floor/Stage Shows☐ Pool/Billiard Tables☐ *Hot-Spot/Lottery☐ *Other☐ Karaoke☐ *Amateur/Pro Sports Events☐ Video/Coin-Operated Games

*Description:

21. FOOD SERVICE

☐ None☐ Minimal☒ Full Meals

22. TYPE OF FOOD

☐ American☐ French☐ Indian☐ Korean☐ Seafood☐ Chinese☐ German☐ Italian/Pizza☐ Mexican☐ Thai☒ Fast Food/Deli☐ Greek☐ Japanese☒ Other:23. HOURS OF FOOD SERVICE
BREAKFAST HOURS

From:

To:

LUNCH HOURS

From:

11:30 AM To: 2:30 PM

DINNER HOURS

From:

6:00 PM To: 12:30 AM

24. INFORMATION GIVEN (R-27, R-107, Sec. 25612.5, Sec. 23790.5, etc.)

FOR ABC USE ONLY

25. DATE ENTERED INTO CABIN

8/12/03

ABC-257 (REVERSE) (9/01)

ATTACHMENT P
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08.20.2002

833 W. El Camino Real , Suite # 1

European store-restaurant-meeting room was created for the purpose to serve the public in the City of Sunnyvale for convenience shopping as a grocery store and for celebrating special events (birthday celebration, family gathering etc) in the restaurant-meeting room known as "Aragvi".

The establishment as whole will be called " WINMART ".

The store portion will have 4-6 section : Delicatessen, Frozen food, Bakery, Dry and canned food and wine and beer.

The restaurant-meeting room (Aragvi) has special sound-proof walls not to disturb adjacent businesses during normal business hours if music is being played. Usually musical events will take place in the evenings.

Music will be played in different forms : Keyboard, CD or small piano led group.

Restaurant-meeting room (Aragvi) will have it's own entrance and exit.

Hours of operation :

WinMart (store) 10:00 A.M. – 8:00 P.M. Monday-Sunday

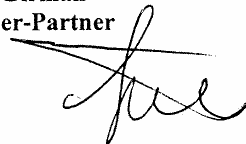
Aragvi (meeting room) 1:00 P.M. – 3:30 P.M. Monday-Sunday

6:30 P.M. – 9:30 P.M. Monday-Sunday

Or

Special Events 7:30 P.M.—Midnight Friday-Sunday

Alex Birman
Owner-Partner



Karapet Grigorian
Owner-Partner

